

## REMARKS

### ***Claim Status***

This paper presents claims 1-16 and 20-36 for reconsideration and further examination.

This paper amends claims 1, 5, 14, 20-30, 33 and 36. Claims 1, 14, 20, 30, and 36 are the current independent claims.

### ***Minor Amendments***<sup>3</sup>

This paper amends claims 22-23 and 25-29 for reasons not having to do with the Office Action, specifically for stylistic reasons not having to do with any rejection or merit. No modification in scope is intended, and these amendments do not affect patentability of the amended claims.

This paper also amends the following claims (in part) for reasons not having to do with the Office Action, specifically for stylistic reasons not having to do with any rejection or merit. No modification in scope is intended, and these amendments do not affect patentability of the amended claims. In these

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<sup>3</sup> This section was moved here from the end of the response.

pointers to claim parts, “¶ n of the claim” refers to the n<sup>th</sup> paragraph after the preamble.

Claim 5, ¶ 3 of the claim at line 3 of the paragraph, and ¶ 4 of the claim at line 1 of the paragraph, all such amendments;

Claim 20, ¶ 5 of the claim at lines 2-3 of the paragraph, the phrases “for transmission a portion of” and “at least one”;

Claim 21, preamble and ¶ 1 of the claim, all such amendments;

Claim 24, preamble and ¶¶ 2-3 of the claim, all such amendments;

Claim 33, ¶ 2 of the claim at line 2 of the paragraph, all such amendments, and ¶ 4 of the claim, all such amendments.

This listing of minor amendments is not intended to be exclusive, and there might be other amendments not specifically called out that are also minor in scope. Accordingly, we urge the Examiner to make an independent determination of whether any particular amendment, or part thereof, is merely stylistic or is required by one or more sections of 35 U.S.C. to make the claim allowable.

As discussed below, these claims are allowable notwithstanding any rejections stated in the Office Action.

### ***Art Rejections***

#### *Independent Claims 1, 14, 20, 30, and 36*

The Office Action rejected independent claims 1, 14, 20, 30, and 36 under 35 U.S.C. § 102(e) as being anticipated by Himmel, U.S. Patent Number 6,167,441 ("Himmel" hereinafter). Applicant respectfully requests reconsideration based on the above amendments and the following arguments. For convenience of discussion, independent claim 20 is set forth below, as amended but without markings:

20. A method of delivering a web page, the method comprising:
  - storing the web page, the web page containing non-optional content data and optional content data;
  - receiving a request for transmission of the web page from a remote device;
  - determining at least one performance characteristic of the remote device, the at least one performance characteristic being selected from the group consisting of remote device operating system, connection type, processor type, amount of memory, user preferences, display size, and software installed;

automatically selecting for transmission a portion of optional content data of the web page responsive to the determined at least one performance characteristic; and

transmitting the web page, including the non-optional content data and the selected portion of optional content data to the remote device.

Claim 20, as amended, recites a web page containing “non-optional content data and optional content data.” The device performing the claimed method selects “for transmission a portion of optional content data of the web page responsive to the determined at least one performance characteristic” of the remote device that sent a request for the web page. The performance characteristic is “selected from the group consisting of remote device operating system, connection type, processor type, amount of memory, user preferences, display size, and software installed.” Thus, according to the method of claim 20, the same web page can be served to devices with different operating systems, connection types, processor types, memory sizes, user preferences, and installed software. Only one web page needs to be maintained for all such devices. In contrast, Himmel generally discloses redirecting a web page request to a web page selected based on the client type. Consider, for example, the following statements made in Himmel:

- “The client request is redirected to a Uniform Resource Locator (URL) according to the detected client device capability information to retrieve a version of the requested file.” Himmel, the Abstract (emphasis added).

- “The client request is redirected to a Uniform Resource Locator (URL) according to the detected client device capability information to retrieve a version of the requested file.” Himmel, col. 2, lines 32-35 (emphasis added).
- “This application, the ‘client-smart agent’, attaches itself to the HTTP server and redirects the server to the correct page depending on the client device.” Himmel, col. 5, lines 34-36 (emphasis added).
- “The client-smart agent 113 redirects the client request to the appropriate web page depending on the detected client type.” Himmel, col. 6, lines 33-35 (emphasis added).
- “Requests from clients having vastly different display sizes are likely to be directed to different web pages on different URLs.” Himmel, col. 7, lines 44-46 (emphasis added).
- “Rather than forcing the user to upgrade to a new browser, the invention will allow the client-smart agent to select a web page which is within the parsing and presentation capabilities of the detected browser.” Himmel, col. 7, lines 59-63 (emphasis added).

- “The utilities would enter into a dialog with the utility to make a respective page for each supported device.” Himmel, col. 9, lines 11-13 (emphasis added).
- “Consequently, the HTTP request can be redirected to web pages written in the appropriate language.” Himmel, col. 9, lines 32-33 (emphasis added).

Himmel also discloses that “[t]he selected web page is dynamically reformatted, if necessary, according to the detected client type.” Himmel, col. 7, lines 35-37. It appears that the only example of such reformatting is given towards the end of the immediately following paragraph:

Other aspects of the customization may be dynamic modification of the web page content performed on the fly. . . . Requests from clients with similar screen sizes, but different display characteristics such as color palettes may be directed to the same URL, however, the embedded URLs which point to image data within the overall page may be dynamically selected to provide the image which will look the best for the detected client device. Yet others such as font or font size can be dynamically adjusted in the HTML on the fly.

Himmel, col. 7, lines 41-52 (emphasis added). Although Himmel discloses in the quoted portion that requests from clients with different display

characteristics (other than display size) may be directed to the same URL, the embedded URLs that point to image data are dynamically selected. It appears that, in the quoted text, Himmel also teaches redirecting to another URL, such as a web page.

Even if a more expansive definition of a URL is accepted, Himmel discloses dynamic selection of URLs and fonts based only on the display characteristics other than display size. In contrast, the performance characteristic affecting selection of optional content in accordance with claim 20 is selected from the group consisting of remote device operating system, connection type, processor type, amount of memory, user preferences, display size, and software installed. This is not disclosed in Himmel. Indeed, as regards using display size characteristic for selecting optional content, Himmel teaches away from such limitation: "Requests from clients having vastly different display sizes are likely to be directed to different web pages on different URLs." Himmel, col. 7, lines 44-46.

Applicant respectfully submits that independent claim 20, as amended, is not anticipated by Himmel at least for the reasons discussed above. Independent claims 1, 14, 30 and 36 should be patentable for the same reason as claim 20. All currently-presented claims depend from these independent claims, thus should also be allowable.

*Claims 8, 16, 27, 34, and 36*

Each of these claims recites optimization constraints indexing classes of devices. “Indexing” refers to using or serving as an index, i.e., “a sequence of numbers, each specifying one of an ordered set of items.” See, e.g., OXFORD UNIVERSITY PRESS, THE NEW SHORTER OXFORD ENGLISH DICTIONARY (CD-ROM ed. 1996). Optimization constraints indexing classes of devices are described, for example, in the present application, at pages 10-11. We have reviewed Himmel, but we have not been able to identify therein any disclosure or suggestion of optimization constraints indexing classes of client devices. At least for this reason, Applicant submits that claims 8, 16, 27, 34, and 36 are separately patentable over Himmel.

*Claims 3-4, 22-26 and 32*

Claims 3-4, 22-24 and 32 each recite ordering content items, and that steps of selecting are responsive to a device “having the highest [or lowest] performance characteristic.” Himmel does not show or suggest ordering content items, or selecting one of those ordered content items responsive to a “highest” or “lowest” performance characteristic. Claims 25-26 depend from claim 24. At least for this reason, claims 3-4, 22-26 and 32 are separately allowable over Himmel.



*Other Dependent Claims*

The above discussion addresses patentability of all independent claims and of some of the dependent claims of the present application. Dependent claims that have not been specifically addressed should be patentable together with their respective base claims and intervening claims, if any.

***Conclusion***

As described above, all claims should be allowable in their present form. Reconsideration and withdrawal of all rejections, and early allowance, are respectfully requested.

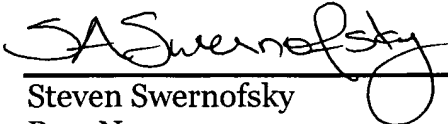
The Examiner can reach Applicants' attorney at (650) 947-0700 x306, or by email at [sasw@swernofsky.com](mailto:sasw@swernofsky.com). The Examiner is encouraged to con-

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tact Applicant's attorney if there are any questions, or if this application can be advanced to issuance in any way.

Respectfully submitted,

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